

SECOND REGULAR SESSION

SENATE BILL NO. 1274

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Read 1st time February 28, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5386S.011

AN ACT

To amend chapter 135, RSMo, by adding thereto one new section relating to a tax credit for contributions made to mentally retarded and developmental type disability care providers.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 135, RSMo, is amended by adding thereto one new section, to be known as section 135.1180, to read as follows:

135.1180. 1. This section shall be known and may be cited as the "Mentally Retarded and Developmental Type Disability Care Provider Tax Credit program".

2. As used in this section, the following terms mean:

(1) "Certificate", a tax credit certificate issued under this section;

(2) "Department", the Missouri department of social services;

(3) "Eligible donation", donations received, by a provider, from a taxpayer that are used solely to provide direct care services to the mentally retarded and persons with developmental type disabilities who are residents of this state. Eligible donations may include cash, publicly traded stocks and bonds, and real estate that will be valued and documented according to rules promulgated by the department of social services. For purposes of this section, "direct care services" include, but are not limited to, increasing the quality of care and service for the mentally retarded and persons with developmental type disabilities through improved employee compensation and training;

(4) "Qualified mentally retarded and developmental type disability care provider" or "provider", a care provider that provides assistance to the mentally retarded or persons with developmental type disabilities, and is under contract with the Missouri department of

21 social services to provide treatment services for such persons, and that
22 receives eligible donations. Any provider that operates more than one
23 facility or at more than one location shall be eligible for the tax credit
24 under this section only for any eligible donation made to facilities or
25 locations of the provider which are licensed and accredited;

26 (5) "Taxpayer", any of the following individuals or entities who
27 make an eligible donation to a provider:

28 (a) A person, firm, partner in a firm, corporation, or a
29 shareholder in an S corporation doing business in the state of Missouri
30 and subject to the state income tax imposed in chapter 143, RSMo;

31 (b) A corporation subject to the annual corporation franchise tax
32 imposed in chapter 147, RSMo;

33 (c) An insurance company paying an annual tax on its gross
34 premium receipts in this state;

35 (d) Any other financial institution paying taxes to the state of
36 Missouri or any political subdivision of this state under chapter 148,
37 RSMo;

38 (e) An individual subject to the state income tax imposed in
39 chapter 143, RSMo;

40 (f) Any charitable organization which is exempt from federal
41 income tax and whose Missouri unrelated business taxable income, if
42 any, would be subject to the state income tax imposed under chapter
43 143, RSMo.

44 3. For all taxable years beginning on or after January 1, 2009,
45 any taxpayer shall be allowed a credit against the taxes otherwise due
46 under chapter 147, 148, or 143, RSMo, excluding withholding tax
47 imposed by sections 143.191 to 143.265, RSMo, in an amount equal to
48 fifty percent of the amount of an eligible donation, subject to the
49 restrictions in this section. The amount of the tax credit claimed shall
50 not exceed the amount of the taxpayer's state income tax liability in the
51 tax year for which the credit is claimed. Any amount of credit that the
52 taxpayer is prohibited by this section from claiming in a tax year shall
53 not be refundable, but may be carried forward to any of the taxpayer's
54 four subsequent taxable years.

55 4. To claim the credit authorized in this section, a provider may
56 submit to the department an application for the tax credit authorized
57 by this section on behalf of taxpayers. The department shall verify that

58 the provider has submitted the following items accurately and
59 completely:

60 (1) A valid application in the form and format required by the
61 department;

62 (2) A statement attesting to the eligible donation received, which
63 shall include the name and taxpayer identification number of the
64 individual making the eligible donation, the amount of the eligible
65 donation, and the date the eligible donation was received by the
66 provider; and

67 (3) Payment from the provider equal to the value of the tax
68 credit for which application is made.

69 If the provider applying for the tax credit meets all criteria required
70 by this subsection, the department shall issue a certificate in the
71 appropriate amount.

72 5. Tax credits issued under this section may be assigned,
73 transferred, sold, or otherwise conveyed, and the new owner of the tax
74 credit shall have the same rights in the credit as the
75 taxpayer. Whenever a certificate is assigned, transferred, sold, or
76 otherwise conveyed, a notarized endorsement shall be filed with the
77 department specifying the name and address of the new owner of the
78 tax credit or the value of the credit.

79 6. The department shall promulgate rules to implement the
80 provisions of this section. Any rule or portion of a rule, as that term is
81 defined in section 536.010, RSMo, that is created under the authority
82 delegated in this section shall become effective only if it complies with
83 and is subject to all of the provisions of chapter 536, RSMo, and, if
84 applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
85 are nonseverable and if any of the powers vested with the general
86 assembly pursuant to chapter 536, RSMo, to review, to delay the
87 effective date, or to disapprove and annul a rule are subsequently held
88 unconstitutional, then the grant of rulemaking authority and any rule
89 proposed or adopted after August 28, 2008, shall be invalid and void.

90 7. Under section 23.253, RSMo, of the Missouri sunset act:

91 (1) The provisions of the new program authorized under this
92 section shall automatically sunset six years after August 28, 2008,
93 unless reauthorized by an act of the general assembly; and

94 (2) If such program is reauthorized, the program authorized

95 under this section shall automatically sunset twelve years after the
96 effective date of the reauthorization of this section; and

97 (3) This section shall terminate on September first of the
98 calendar year immediately following the calendar year in which the
99 program authorized under this section is sunset.

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Unofficial

Bill

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